

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 4972 of 2016 (O&M)

Reserved on: May 27, 2022

Pronounced on: July 08, 2022

SI BHUPINDER SINGH NO.147/PPA AND OTHERS

...Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Kamaldip Singh Sidhu, Advocate
for the petitioners.

Mr. Vikas Mohan Gupta, Addl. A. G., Punjab.

Mr. Parvez Chugh, Advocate
for applicants in CM Nos.6130 & 6133 of 2020.

JAISHREE THAKUR, J.

1. The petitioners herein are seeking a writ in the nature of mandamus or any other appropriate writ, order or direction for grant of Officiating / regular promotions and to confirm them in the rank of Head Constables, Assistant Sub-Inspectors and Sub-Inspectors etc. along with all consequential benefits from the date when juniors to the petitioners were given confirmation and promotions as regular Head Constables, Assistant Sub-Inspectors and Sub-Inspectors etc.

2. In brief, the facts as stated are that the petitioners herein were recruited as Constables against permanent vacancies at Maharaja Ranjit

Singh Punjab Police Academy (PPA), Phillaur during the year 1991-1994. The petitioners herein joined the said service from 04.12.1991 to 29.01.1994 and they excelled while performing their duties diligently and sincerely. Petitioner No.1 was awarded a gold medal for his excellent performance in All India Police Duty Meet-2014 held after 1974 first time at Punjab Police Academy (PPA), Phillaur. Apart from this, petitioner No.1 also achieved four times gold medal due to best performance in Punjab Inter Zone Police Duty Meet. Similarly, petitioner Nos.2 to 5 have also been awarded medals and commendation certificates by the department for their good work. On account of their performance and excellent service record, the petitioners were promoted in the rank of Head Constables, Assistant Sub-Inspectors and Sub-Inspectors on the basis of adhoc/honorary rank against existing/permanent vacancies at Punjab Police Academy (PPA), Phillaur, on the basis of their seniority. It is the case set up that the petitioners, who have worked for a long period of 14-20 years, have neither been confirmed nor considered for further regular promotions in the rank of Assistant Sub-Inspectors, Sub-Inspectors and Inspectors etc., while persons, who are junior to the petitioners have been given the necessary promotions on regular basis. It is claimed that the petitioners herein would be entitled to be given regular promotions having completed two years on their officiating post. It is also stated that as their ad hoc rank has never been withdrawn till date, they ought to be confirmed against the said promotions and consequently, be given the benefit of further regular promotions.

3. Learned counsel appearing on behalf of the petitioners would contend that the ad hoc promotions given to the petitioners herein with the prior approval of the competent authority was against the availability of

existing/vacant and sanctioned posts at Punjab Police Academy (PPA), Phillaur. It is argued that the petitioners herein, after their appointment, were not asked to sit for the B-1 test. It is argued that as they have completed more than two years of probation period on the promoted rank without any complaint, they would be entitled to confirmation on the said posts.

4. Learned counsel appearing on behalf of the State of Punjab would contend that the petitioners herein were recruited as Constables in Punjab Police Academy (PPA), Phillaur against the post of Constables. The petitioners have neither undergone any promotion course nor have they ever been granted any out of turn promotion. It is argued that as per Chapter-13 of the Punjab Police Rules, 1934, a Constable has to appear and pass Basic Proficiency Test and then has to undergo Lower School Course meant for promotion to the rank of Head Constable. Similarly, a Head Constable has to undergo Intermediate School Course for promotion to the rank of Assistant Sub-Inspector. Further, Assistant Sub-Inspector has to undergo Upper School Course for promotion to the rank of Sub-Inspector. As per Rule 13.8 of the Punjab Police Rules, 1934, a Constable who has undergone Lower School Course will be brought on List-C for further promotion as Head Constable. As per Rule 13.9 of the Punjab Police Rules, 1934, a Head Constable who has undergone Intermediate School Course will be brought on List-D for further promotion as Assistant Sub-Inspector and as per Rule 13.10 of the Punjab Police Rules, 1934, a Assistant Sub-Inspector will be brought on List-E for further promotion as Sub-Inspector. It is further submitted that the Basic Proficiency Test was introduced in the year 2007 at Punjab Police Academy (PPA) and the petitioners have either refused to sit

in the said test or failed to avail of the opportunity since 2007 and, therefore, not having passed the Basic Proficiency Test, they would not be entitled to be confirmed on the posts they are officiating at. It is also argued that as per Rule 13.21 of the Punjab Police Rules, 1934, the Director General of Police, Punjab has the power to relax any of the Rules by allowing out of turn promotion to any official on account of having done outstanding/exemplary work. The petitioners do not fall in such a category which may be covered under Rule 13.21 of the Punjab Police Rules, 1934. Hence, the petitioners were never granted any out of turn promotion nor were they brought on any Exemptee List. It is further submitted that juniors to the petitioners who stood promoted were done so by the office of the Director General of Police, Punjab by exercising provisions under Rule 13.21 of the Punjab Police Rules, 1934 and, therefore, the petitioners herein cannot claim promotion by claiming equity. It is further submitted that the petitioners were granted ad hoc ranks/honorary ranks by the department to boost their morale (Annexure R-5), which ranks were given subject to the following conditions only:-

1. They will not claim any monetary benefits by virtue of this hon'y rank of Sub-Inspector.
2. They will not claim any seniority over their seniors by virtue of said sdhoc/honorary rank.
3. They can be reverted to their substantive rank at any time without any reason and without observing the formalities of any show cause notice.
4. They will enjoy the hon'y rank only during their posting in Punjab Police Academy, Phillaur.

5. Learned State counsel would also point out that the service record of the petitioners does not reflect an unblemished career apart from relying upon Annexure R-1/T to submit that the petitioners herein had themselves submitted letters that they did not want to undergo Lower School Course having been promoted as ad hoc Head Constables on the basis of seniority.

6. I have heard learned counsel for the parties and with their assistance have gone through the pleadings of the case and the documents relied upon.

7. It is not in dispute that the petitioners herein came to be appointed as Constables between the period 1991-1994. The grouse of the petitioners herein is that they have not been confirmed on the ad hoc promotions given to the post of Head Constables, thereafter as Assistant Sub-Inspectors and Sub-Inspectors. Chapter-13 of the Punjab Police Rules, 1934, deals with regular promotions to be granted to a Constable and further promotion to the rank of Head Constable, Assistant Sub-Inspector and Sub-Inspector etc. As per Chapter-13 of the Punjab Police Rules, 1934, a Constable can be promoted to the rank of Head Constable either through passing the Basic Proficiency Test called the B-1 test and undergoing Lower School Course, which would bring the name of the Constable on a C-1 List or by way of exemption allowed to him, which would bring his name on to the C-2 List. The basic criteria of the said selection for undergoing the Lower School Course is 25% through merit of the B-1 test, 70% based on seniority, which is on completion of 16 years of service as a Constable and 5% through the sports quota. Similarly, the Punjab Police Rules, 1934, further provides for method of promotion from Head Constable to the rank

of Assistant Sub-Inspector, who would have to go through Intermediate School Course and for getting promoted to the rank of Sub-Inspector, the candidate would have to undergo the Upper School Course. The petitioners herein, who joined service between the years 1991-1994 were given ad hoc promotions, however, the said promotions have been given keeping in mind their length of service. This is the stand as taken in the written statement. There is a categorical averment made that the petitioners would not be entitled to confirmation on the said posts as they have not undergone the Basic Proficiency Test and had rather waived their right to undergo the said Lower School Course. The petitioners herein have relied upon certain names to reflect that these persons have been promoted to the posts of Head Constable etc., however, a reading of the record would reflect that such persons have either undergone the Lower School Course during the period 2005-2011 or they were brought on to the Exemptee List.

8. Once the Punjab Police Rules, 1934, itself provide for avenue of promotions, the same have to be adhered to strictly in accordance with law. Chapter-13 of the Punjab Police Rules, 1934, details the manner and method in which promotions would be made of persons recruited as Constable and then who would be entitled to seek promotion to the post of Head Constable, Assistant Sub-Inspector and Sub-Inspector etc. It is apparent that though the petitioners have been given ad hoc promotions, their substantive rank is that of a Constable as they have not undergone any of the promotional courses as required and envisaged under the Punjab Police Rules, 1934. Merely because they were given ad hoc promotion and have worked against the said post for a length of time, no vested right can be claimed by the petitioners for confirmation against the said posts. The

pleadings themselves would reveal that the petitioners have given undertakings available as Annexure R-1/T, in which they have themselves clearly stated that they have been given ad hoc promotions and, therefore, do not want to undergo the Lower School Course. Once the petitioners themselves have opted not to undergo the Lower School Course, it can safely be assumed that when they were given the chance to do so, they of their own volition, gave up the right and wanted to continue on the officiating rank. No one can claim a right to be confirmed against a rank merely on the ground of having officiated on it. The promotions are to be made in accordance with the Rules and any action in violation of the Rules would be liable to be set aside. Therefore, the action of the respondents in not confirming the petitioners herein on their officiating posts does not call for any interference of this Court.

9. Consequently, the present writ petition is dismissed.

10. With the dismissal of the writ petition, the interim order dated 26.10.2018 passed therein stands merged in the final order. Accordingly, no cause of action remains to entertain CM Nos.6130 & 6133 of 2020, filed by ASI Inderjit Singh and ASI Amrik Singh to be impleaded as party to the instant petition and to pass any order regarding their promotion. Accordingly, both the miscellaneous applications are dismissed.

July 08, 2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No